

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHELLE A. RUTOWSKI,	:	
	:	
Plaintiff,	:	
	:	No. 3:08-CV-1037
v.	:	
	:	(JUDGE CAPUTO)
CIGNA GROUP INSURANCE,	:	
	:	
Defendants.	:	

**MEMORANDUM ORDER**

Before me is Plaintiff's Complaint, which raises claims related to a denial of benefits under an insurance policy that Plaintiff alleges is "governed by the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001 et seq." (Doc. 1 ¶ 5.) The Complaint, however, does not expressly allege a basis for this Court's exercise of subject matter jurisdiction. Federal courts have an obligation to address issues of subject matter jurisdiction *sua sponte*. *Meritcare Inc. v. St. Paul Mercury Ins. Co.*, 166 F.3d 214, 217 (3d Cir. 1999.) Subject matter jurisdiction must be averred in the complaint. FED. R. CIV. P. 8(a). Although ERISA, which Plaintiff cites, includes a provision conferring subject matter jurisdiction, 29 U.S.C. § 1132(e), Plaintiff does not allege that this provision confers jurisdiction over the instant action. See *Kent County Memorial Hosp. v. Balasco*, Civ. A. No. 89-0075B, 1990 WL 17157, at \*3 (D.R.I. Feb. 13, 1990) (holding that although both 28 U.S.C. § 1331 and a specific provision of the Racketeering Influenced and Corrupt Organizations Protection Act (RICO), 18 U.S.C. § 1964(c), would have given the court subject matter jurisdiction over civil RICO claims, and although the complaint "makes implicit reference to federal question jurisdiction by its RICO allegations," the complaint did not aver that the court's jurisdiction was proper).

For the foregoing reasons, **NOW**, this 30th day of May, 2008, upon review of the Plaintiff's Complaint, **IT IS HEREBY ORDERED THAT** this action is **DISMISSED** without prejudice based upon lack of subject matter jurisdiction.

/s/ A. Richard Caputo

A. Richard Caputo  
United States District Judge